

1 **PLAN SUBMITTER, RPF AND LTO RESPONSIBILITIES, 2000**
2 Proposed Rule Language

3 **Amend § 1035 Plan Submitter Responsibility**

4 The plan submitter, or successor in interest, shall:

5 (a) Ensure that an RPF conducts any activities which require an RPF.

6 (b) Provide the RPF preparing the plan or amendments with complete and
7 correct information regarding pertinent legal rights to, interests in, and
8 responsibilities for land, timber, and access as these affect the planning
9 and conduct of timber operations.

10 (c) Sign the THP certifying knowledge of the plan contents and the
11 requirements of this section.

12 (d) Retain an RPF to provide professional advice regarding the plan,
13 its contents, the Forest Practice Rules, and other associated regulations to
14 the LTO and timberland owner on a continuing basis throughout the timber
15 operations.

16 ~~(d)~~(e) Within five (5) working days of change in RPF responsibilities
17 for THP implementation or substitution of another RPF, file with the Director
18 a notice which states the RPF's name and registration number, address, and
19 subsequent responsibilities for any RPF required fieldwork, amendment
20 preparation, or operation supervision. Corporations need not file
21 notification because the RPF of record on each document is the responsible
22 person.

23 ~~(e)~~(f) Provide a copy of the portions of the approved THP and any
24 approved operational amendments to the LTO containing the General
25 Information, Plan of Operations, THP Map, Yarding System Map, Erosion Hazard
Rating Map and any other information deemed by the RPF to be necessary for
timber operations.

1 ~~(f)~~(g) The plan submitter shall notify the Director prior to
2 commencement of site preparation operations. Receipt of a burning permit is
3 sufficient notice.

4 ~~(g)~~(h) Disclose to the LTO, prior to the start of operations, through
5 an on-the-ground meeting, the location and protection measures for any
6 archaeological or historical sites requiring protection if the RPF has
7 submitted written notification to the plan submitter that the plan submitter
8 needs to provide the LTO with this information.

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10 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
11 Reference: Sections 4582 and 4582.5, Public Resources Code.

12 **Amend § 1035.1 Registered Professional Forester Responsibility**

13 (a) Upon submission of a THP, the Registered Professional Forester
14 (RPF) who prepares and signs a plan is responsible for the accuracy and
15 completeness of its contents. The responsible RPF ~~preparing the plan~~ shall:

16 (1) Disclose to the timberland owner, timber owner, and plan submitter
17 any current or pending financial interest the RPF has with regard to the LTO,
18 plan submitter, timberland owner, timber owner, and timber purchaser, in
19 regard to the timber or land that is subject of the plan. Disclosure shall
20 be required as long as an RPF has responsibilities relative to a plan. The
21 disclosure shall include identification of the real party of interest for
22 whom the RPF is providing professional forestry services.

23 ~~(a)~~(2) State in the THP the work which will be performed by the RPF
24 plan preparer (beyond preparation of the THP and attending the pre-harvest
25 inspection if requested by the Director), and any additional work requiring
an RPF which the plan preparer does not intend to perform. This may include,

1 but is not limited to, field work in identifying watercourse and lake
2 protection zones or special treatment areas, marking trees, or other
3 activities. The RPF is only responsible for the activities set forth in the
4 plan when employed for that purpose, or required by the rules of the Board.
5 The RPF shall state whether or not he or she has been retained to provide
6 professional advice throughout the timber operations.

7 ~~(b)~~ (3) In writing, inform the plan submitter(s) of their responsibility
8 pursuant to Section 1035 of this Article, and the timberland owner(s) of
9 their responsibility for compliance with the requirements of the Act and
10 where applicable, Board rules regarding site preparation, stocking, and
11 maintenance of roads, landings, and erosion control facilities.

12 (b) An RPF retained by the plan submitter to provide professional
13 advice throughout the timber operations shall:

14 (1) Be present, or ensure that the RPF's supervised designee is
15 present, on the harvest area at a sufficient frequency to know the progress
16 of operations and advise the LTO and timberland owner, but not less than once
17 during the life of the plan.

18 (2) Be authorized by the plan submitter, timberland owner (if a plan
19 signatory), and the LTO, in writing and made part of the plan, to require the
20 LTO to stop active timber operations if the RPF determines that work stoppage
21 is needed to remediate or prevent imminent resource damage or to prevent
22 substantial deviation from the plan. The work stoppage shall be of
23 sufficient duration to remedy the condition that resulted in the work
24 stoppage. Nothing in this chapter shall authorize the RPF to direct or
25 otherwise control the operation, employees, or any subcontractor of the LTO.

1 (3) Inform the LTO of potential adverse environmental impacts and the
2 mitigation measures to be taken to minimize such impacts.

3
4 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
5 Reference: Sections 4583 and 4583.5, Public Resources Code.

6 **Amend § 1035.3 Licensed Timber Operator Responsibilities**

7 Each Licensed Timber Operator shall:

8 (a) Sign the plan and major amendments to the plan, or sign and file
9 with the Director a facsimile of such plan or amendments, agreeing to abide
10 by the terms and specifications of the plan. This shall be accomplished
11 prior to commencement or continuation of operations.

12 ~~(a)~~(b) Inform the responsible RPF or plan submitter, whether in writing
13 or orally, of any site conditions which in the LTO's opinion prevent
14 implementation of the approved plan including amendments.

15 ~~(b)~~(c) Be responsible for the work of his or her employees and
16 familiarize all employees with the intent and details of the operational and
17 protection measures of the plan and amendments that apply to their work.

18 ~~(c)~~(d) Keep a copy of the applicable approved plan and amendments
19 available for reference at the site of active timber operations. The LTO is
20 not required to possess any confidential addenda to the plan such as the
21 Confidential Archaeological Addendum, nor is the LTO required to keep a copy
22 of such confidential plan addenda at the site of active timber operations.

23 ~~(d)~~(e) Comply with all provisions of the Act, Board rules and
24 regulations, the applicable approved plan and any approved amendments to the
25 plan.

1 ~~(e)~~(f) In the event that the LTO executing the plan was not available
2 to attend the on-site meeting to discuss archaeological site protection with
3 the RPF or supervised designee familiar with on-site conditions pursuant to
4 Section 929.2 [949.2, 969.2] (b), it shall be the responsibility of the LTO
5 executing the plan to inquire with the plan submitter, timberland owner, or
6 their authorized agent, RPF who wrote the plan, or the supervised designee
7 familiar with on-site conditions, in order to determine if any mitigation
8 measures or specific operating instructions are contained in the Confidential
9 Archaeological Addendum or any other confidential addendum to the plan.

10 (g) Provide the RPF responsible for professional advice throughout the
11 timber operations an on-site contact employee authorized by the LTO to
12 receive RPF advice and to stop active timber operations, if requested to do
13 so by the RPF.

14
15 Note: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code.
16 Reference: Sections 4528.5 and 4571, Public Resources Code.

17 **Amend § 1037 THP Preharvest Inspection-Filing Return**

18 Within ten (10) days of the receipt of a plan, the Director shall
19 determine if the plan is accurate, complete and in proper order, and if so,
20 the plan shall be filed. During this same period, the Director shall
21 determine if a preharvest inspection is necessary. When the Director finds a
22 plan inaccurate, incomplete, or otherwise not in proper order, the plan shall
23 be returned to the submitter with written specifications of the deficiencies.

24 If a preharvest inspection is to be held, the LTO who will operate
25 under the plan, if known, shall be invited to participate.

1 Note: Authority cited: Sections 4551, 4551.5, 4552, 4582.7 and 21080.5,
2 Public Resources Code; *NRDC v. Arcata National Corp.* (1976), 50 Cal. App. 3d
3 959. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and
4 21092, Public Resources Code.

4 **Amend § 1092.11 PTHP Submitter Responsibility**

5 The PTHP submitter, or successor in interest, shall:

6 (a) Ensure that an RPF conducts any activities which require an RPF.

7 (b) Provide the RPF preparing the PTHP or amendments with complete and
8 correct information regarding pertinent legal rights to, interests in, and
9 responsibilities for land, timber, and access as these affect the planning
10 and conduct of timber operations.

11 (c) Sign the PTHP certifying knowledge of it's contents and the
12 requirements of this section.

13 (d) Retain an RPF to provide professional advice regarding the plan,
14 its contents, the Forest Practice Rules, and other associated regulations to
15 the LTO and timberland owner on a continuing basis throughout the timber
16 operations.

17 ~~(d)~~(e) Within five (5) working days of change in RPF responsibilities
18 for PTHP implementation or substitution of another RPF, file with the
19 Director a notice which states the RPF's name and registration number,
20 address, and subsequent responsibilities for any RPF required field work,
21 amendment preparation, or operation supervision. Corporations need not file
22 notification because the RPF of record on each document is the responsible
23 person.

24 ~~(e)~~(f) Provide a copy of the approved PTHP and any amendments to the
25 LTO.

26 ~~(f)~~(g) Notify the Director prior to commencement of site preparation
27 operations. Receipt of a burning permit is sufficient notice.

1 Note: Authority cited: Sections 4551 and 4582 ~~452~~, Public Resources Code.

2 Reference: Sections 4582 and 4582.5, Public Resources Code.

3
4 **Amend § 1092.12 Registered Professional Forester Responsibility**

5 (a) Upon submission of a PTHP, the RPF who prepares and signs a PTHP is
6 responsible for the accuracy and completeness of its contents. The
7 responsible RPF shall:

8 (1) Disclose to the timberland owner, timber owner, and plan submitter
9 any current or pending financial interest the RPF has with regard to the LTO,
10 plan submitter, timberland owner, timber owner, and timber purchaser, in
11 regard to the timber or land that is subject of the plan. Disclosure shall
12 be required as long as an RPF has responsibilities relative to a plan. The
13 disclosure shall include identification of the real party of interest for
14 whom the RPF is providing professional forestry services.

15 ~~(b) The RPF preparing the PTHP shall~~ (2) list or describe in the PTHP
16 any work which will be performed by the PTHP preparer and any additional work
17 requiring an RPF which the PTHP preparer does not intend to perform. This
18 may include, but is not limited to, field work in identifying watercourse and
19 lake protection zones or special treatment areas, marking trees, or other
20 activities. The RPF is only responsible for the activities for which he or
21 she is employed, or those required by the rules of the Board. The RPF shall
22 state whether or not he or she has been retained to provide professional
23 advice throughout the timber operations.

24 ~~(c) The RPF preparing the PTHP shall,~~ (3) in writing, inform the PTHP
25 submitter(s) of their responsibility pursuant to Section 1092.11 of this
Article and the timberland owner(s) of their responsibility for compliance

1 with the requirements of the Act and, where applicable, Board rules regarding
2 site preparation, stocking, and maintenance of roads, landings, and erosion
3 control facilities.

4 (b) An RPF retained by the plan submitter to provide professional
5 advice throughout the timber operations shall:

6 (1) Be present, or ensure that the RPF's supervised designee is
7 present, on the harvest area at a sufficient frequency to know the progress
8 of operations and advise the LTO and timberland owner, but not less than once
9 during the life of the plan.

10 (2) Be authorized by the plan submitter, timberland owner (if a plan
11 signatory), and the LTO, in writing and made part of the plan, to require the
12 LTO to stop active timber operations if the RPF determines that work stoppage
13 is needed to remediate or prevent imminent resource damage or to prevent
14 substantial deviation from the plan. The work stoppage shall be of
15 sufficient duration to remedy the condition that resulted in the work
16 stoppage. Nothing in this chapter shall authorize the RPF to direct or
17 otherwise control the operation, employees, or any subcontractor of the LTO.

18 (3) Inform the LTO of potential adverse environmental impacts and the
19 mitigation measures to be taken to minimize such impacts.

20
21 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
22 Reference: Sections 4583.2 and 4583.5, Public Resources Code.
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1 **Amend § 1092.14 Licensed Timber Operator Responsibilities**

2 Each Licensed Timber Operator shall:

3 (a) Sign the plan and major amendments to the plan, or sign and file
4 with the Director a facsimile of such plan or amendments, agreeing to abide
5 by the terms and specifications of the plan. This shall be accomplished
6 prior to commencement or continuation of operations.

7 ~~(a)~~(b) Inform the responsible RPF and PTHP submitter, either in writing
8 or orally, of any site conditions which in the LTO's opinion prevent
9 implementation of the PTHP.

10 ~~(b)~~(c) Be responsible for the work of his or her employees and
11 familiarize all employees with the intent and details of the operational land
12 protection measures of the PTHP and amendments or minor deviations that apply
13 to their work.

14 ~~(c)~~(d) Keep a copy of the applicable approved PTHP and amendments
15 available for reference at the site of active timber operations.

16 ~~(d)~~(e) Comply with all provisions of the Act, Board rules and
17 regulations, the applicable PTHP and any approved amendments or minor
18 deviations.

19 (g) Provide the RPF responsible for professional advice throughout the
20 timber operations an on-site contact employee authorized by the LTO to
21 receive RPF advice and to stop active timber operations, if requested to do
22 so by the RPF.

23
24 Note: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code.
25 Reference: Sections 4551, 4551.5 and 4582, Public Resources Code.

1 **Amend § 1092.16 PTHP Review Inspection-Filing Return**

2 Within ten (10) days of the receipt of a PTHP, the Director shall
3 determine if the PTHP is accurate, complete and in proper order, and if so,
4 the PTHP shall be filed. During this same period, the Director shall
5 determine if a preharvest inspection is necessary. If a preharvest
6 inspection is needed, the department will notify the submitter, the
7 Department of Fish and Game, ~~and~~ the appropriate Regional Water Control
8 Board, and the LTO who will operate under the plan, if known, to determine if
9 they want to attend and to schedule a mutually agreeable time and date of the
10 inspection consistent with PRC 4582.7. When the Director finds a PTHP
11 inaccurate, incomplete, or otherwise not in proper order, the PTHP shall be
12 returned to the submitter with written specifications of the deficiencies.

13
14 Note: Authority cited: Sections 4551, 4551.5, 4552, 4582.7 and 21080.5,
15 Public Resources Code; and *NRDC v. Arcata National Corp.* (1976), 50 Cal. App.
16 3d 959. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081
and 21092, Public Resources Code.

17 doh: 2/4/2000
18 File: Proposed Rule Language
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